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EXAMINER

CEGIELNIK, URSZULA M

ART UNIT

PAPER NUMBER

3712

DATE MAILED: 09/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/642,569

Applicant(s)

EREL, DAVID

Examiner

Urszula M Cegielnik

Art Unit

3712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

**DETAILED ACTION*****Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the software means must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

**8Claim Rejections - 35 USC § 112**

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The Specification, at page 4, lines 19-25, recites: *"The term 'connected elements' as used hereinafter generally refers to discarded objects such as empty bottles and empty cans which are connected to structures by the connectors. The connected elements, however, are not restricted only to discarded objects, as it is objects, as it is obvious that they may be provided from newly fabricated materials as well as from recycled materials or reusable objects"*. It is not clear by the description what the Applicant is intending to disclose as his/her invention.

Furthermore, the Specification does not contain any support for "open trajectory movement".

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites "discarded object". It is not clear what structural limitation(s) is/are encompassed by this recitation.

Claim 6 recites the limitation "the external world" in line 4. There is insufficient antecedent basis for this limitation in the claim. Furthermore, it is not clear what structural limitations are encompassed by the recitation "the external world".

Claim 6 recites "said open trajectory path of movement". However, claim 5, from which claim 6 depends, recites structural limitations using alternative language. Since claim 5 was met using the limitation of rotational movement, the limitation directed to an open trajectory movement in claim 5 has not been any weight. Thus, this limitation in claim 6 is considered to be indefinite.

The above are intended as examples only. Applicant is requested to thoroughly review the claims and make any necessary corrections thereto wherever appropriate but not specifically pointed out.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 11, 12, and 14-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Izumi.

Izumi discloses a system comprising at least one connector (40) provide with a connecting means (72) enabling connection of the at least one connector (40) to at least one connected element (C) to form a structure comprising at least one discarded object (*e.g. a can*); the at least one discarded object comprises an empty can; the connecting means (72) is disposed in a spatial relative position in relation to the at least one connector (*see Figure 16, for example*), the spatial relative position being dynamic (*the spatial position is dynamic as a result of the dynamic characteristic of the coiled spring (72)*); the connecting means (72) is characterized as a member provided with coiled springs (72); the connector (40) is of the type of a rigid object; the connector (40) is provided with only a single connecting means (72) which enables a single connection to at least one of a single the connector (40) and the at least one connected element (C) to form a passive element in the structure (*e.g. the head of the toy figure depicted in Figure 16*); the connector enables the execution of manual construction of the structure without utilizing tools; .the connector (40) is provided with structural means (*an adaptive plug*) which assist in directing at least one male section (73) of a connector (40) and a connected element (C) into at least one of a female section (71) of another connector (40) and a connected element (C).

Claims 1-3, 8, 11, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by World Intellectual Property Organization Publication No. 99/37558, hereinafter WO '558.

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WO '558 discloses a system comprising at least one connector (10) provided with a connecting means (12) enabling connection of the at least one connector (10) to at least one connected element (14) to form a structure comprising at least one discarded object (*e.g. a bottle*); the at least one discarded object comprises an empty bottle (14); the connecting means (12) is disposed in a spatial relative position in relation to the at least one connector (10), the spatial relative position being at least one that is fixable; the connecting means (12) is characterized as being a threaded member (page 3, lines 25-26); the connector (10) and the connecting means (12) are fabricated from a type of material that is rigid (*e.g. plastic – page 3, lines 6-7*).

Claims 1, 4-7, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Light.

Light discloses a system comprising at least one connector (C) provided with a connecting means (15,15') enabling connection of the at least one connector (C) to at least one connected element (10) to form a structure comprising at least one discarded object (*e.g. a can*); the at least one connector is characterized as being capable of kinetic motion along a path that is rotational (col. 4, lines 7-12); the at least one connector (C) and the at least one connected element (10) form the structure as characterized by arrangements comprising at least one of identical and dissimilar types of the at least one connected element (10) wherein the at least one connected element (10) has a variety of sizes and shapes (col. 2, lines 55-60)..

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9,10, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Izumi in view of Outman.

Izumi discloses the claimed invention except for the connector provided with identification means and the structure assembled via software.

Outman discloses a construction system which includes color coding construction modules or applying unique characters, numbers or symbols thereto can also facilitate the formulation of specific sets of instructions which, when followed in a specified sequence, results in particular 3-D structures. Such instructions can be recorded in a booklet, or electronically represented on a CD-ROM disk (with figures and voice tracks) for playback on a multimedia computer system (col. 6, lines 30-39).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide identification means as taught by Outman since such a modification would facilitate the assembly process.

Furthermore, it would have been obvious to provide instructions in the form of software on CD-ROM for playback on a multimedia computer system as



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taught by Outman, since such a modification would facilitate the assembly process.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Urszula M. Cegielnik whose telephone number is 703-306-5806. The examiner can normally be reached on Monday through Friday, from 5:30AM - 2:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris H. Banks can be reached on 703-308-1745. **The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306 for both regular and After Final communications.**

Urszula M. Cegielnik  
Assistant Examiner  
Art Unit 3712

A handwritten signature in black ink, appearing to read 'D. Banks', with a long horizontal stroke extending to the right.

DERRIS H. BANKS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700